



CITY OF NORTH ADAMS, MASSACHUSETTS

Office of the Mayor
Thomas W. Bernard

July 23, 2019

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992, Third Report and Order - MB Docket No. 05-311

Dear Ms. Dortch,

On behalf of the residents and cable subscribers of the City of North Adams, Massachusetts, as well as of the Northern Berkshire Community Television Corporation (NBCTC) – the city’s local access corporation – I write both to fully endorse the position of the Massachusetts Municipal Association (MMA) as well as to register my strong personal disagreement with the Federal Communications Commission’s (FCC) proposed Third Report and Order (Order) requiring Local Franchising Authorities (LFAs) to treat cable-related, in-kind contributions as franchise fees subject to the statutory five percent franchise fee cap, and regarding the LFA’s ability to use its cable franchising authority to regulate the mixed-use network of an incumbent cable operator that is not a common carrier.

As stated in my letter of November 13, 2018, on this matter, residents in North Adams depend on and appreciate the range of public, education, and government (PEG) programming provided by NBCTC. In particular, live and recorded coverage of North Adams City Council meetings and other public events provides residents with a direct connection to information, issues, and concerns that directly affect their lives. Beyond local government, PEG programming and the access corporation’s facilities and expertise create opportunities for true and meaningful citizen engagement in the community. The FCC’s proposed rule threatens the future of PEG programming. Enabling cable licensees to reclassify their current franchise fees as in-kind donations would limit the operating capacity of the access corporation and render licensees like Charter Spectrum (the current licensee for North Adams) less responsive to the needs of the communities they serve.

As noted in the MMA letter of July 17, 2019, this Order contains a number of troubling and unfair provisions:

- It interferes with fairly negotiated contracts by allowing cable operators to deduct the market value of the noncapital obligations associated with public, educational and governmental (PEG) channels, which in turn will invite disagreement regarding determination of the fair market value of these services.
- It will lead to a loss of revenue, requiring municipalities to reallocate resources from other critical priority areas or else risk reducing PEG programming, or eliminating it entirely.
- It limits the right of municipalities to regulate non-cable services and equipment, thereby limiting local authority to regulate placement of facilities in rights-of-way.

These proposed changes are inequitable, and inimical to the public interest. I urge you to reject the proposed rule and act to protect both the public interest and the rights of municipalities to negotiate in good faith and to control our public rights of way.

Sincerely,

Mayor